

ORIGINAL

CC TO JUDGE KN

Honorable Barbara J. Rothstein

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SELAM TEKLEMARIAM,

Plaintiff,

v.

THE CITY OF SEATTLE, a municipal corporation of the State of Washington and its agencies and subdivisions, including THE EXECUTIVE SERVICES HUMAN RESOURCES DEPARTMENT, TERESITA CARSTENSEN AND JOHN DOE CARSTENSEN, husband and wife, acting in their individual capacities; and JOHN DOES I - X,

Defendants.

NO. C01-1494R

**AMENDED COMPLAINT
FOR EMPLOYMENT
DISCRIMINATION**

CV 01-01494 #00000035

Plaintiff Selamawit Teklemariam (Plaintiff) alleges as follows.

I. PARTIES

1. Plaintiff is a single person who resides in King County Washington

2. Defendant City of Seattle (Defendant City of Seattle) is a municipal subdivision of the State of Washington and is a "local government entity" as defined in RCW 4.96.010(2)
At all times material to this complaint, Plaintiff has been employed with Defendant City of Seattle

**AMENDED COMPLAINT
FOR EMPLOYMENT
DISCRIMINATION - 1**

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3. Defendant Teresita Carstensen (Defendant Carstensen) and her husband John Doe Carstensen reside in King County Washington.

4. Defendants John Does I through X are certain individuals whose identities are currently unknown to Plaintiff and whose conduct contributed to the damages sustained by the Plaintiff based on the facts alleged in this complaint. Plaintiff will seek leave to amend this complaint to allege the true names of these Defendants at such time as that information is known.

II. JURISDICTION AND VENUE

5 Jurisdiction and venue are proper in this Court pursuant to RCW 4.12.025 and other applicable laws because one or more of the Defendants reside in King County and the acts and omissions about which Plaintiff complains occurred in King County, Washington.

III. CLAIMS

6 Plaintiff has filed a timely claim against Defendant City of Seattle under the provisions of RCW 4.96.020 and Municipal Code 4.12.070 and has waited 60 days or more prior to commencing this cause of action

IV. FACTS

7 Plaintiff graduated from the University of Washington in June of 1989 with a Bachelors degree in Business Administration with a concentration in Finance. Plaintiff is an African American.

8. Plaintiff began working for Defendant City of Seattle as a temporary employee in October of 1989. In April of 1992, Plaintiff went to work in the Central Accounting Unit as an Accounting Technician 3. Her supervisor at this time was the Defendant Carstensen.

9. Defendant Carstensen is of Filipino origin

10. In September of 1992, Plaintiff began working as a regular City of Seattle employee in the Retirement Office. In 1993, Plaintiff was reclassified as an Accountant.

1 11. In 1994, Plaintiff applied for an accountant position in the Central
2 Accounting unit for the City of Seattle. Plaintiff was not selected for the position. Mr.
3 Benjamin P. Pascual, a Filipino-American man who had resigned from the City of Seattle in
4 1992 was rehired. Defendant Carstensen was the hiring supervisor for the position given to Mr.
5 Benjamin P. Pascual.

6 12. In November of 1997, the Central Accounting Unit published an Opportunity for
7 Advancement Bulletin for a Temporary Senior Accountant position under announcement number
8 092-97. Position 092-97 was described as temporary because it was for a special project of
9 defined duration. The announcement for position 092-97 was not advertised to outside
10 applicants and was seeking applications from current City of Seattle employees.

11 13. The hiring supervisor for position 092-97 was Defendant Carstensen. Plaintiff
12 applied for position 092-97 in a timely fashion. Plaintiff was qualified for position 092-97.
13 Position 092-97 presented an increase in pay from her former position and valuable experience
14 which would place her in an advantageous position for continued upward mobility.

15 14. The Defendant Carstensen discouraged Plaintiff from
16 pursuing position 092-97 by stating to Plaintiff that Plaintiff could not apply for any regular
17 positions if she accepted position 092-97 because it was a temporary position. Defendant
18 Carstensen's representations to Plaintiff regarding Plaintiff's ineligibility to seek regular
19 positions for the duration of the temporary assignment were false and misleading.

20 15. Based on Defendant Carstensen's representations, Plaintiff withdrew her
21 application to position 092-97.

22 16. The person selected for the temporary Senior Accountant position is a woman of
23 Filipino origin, named Emelita Barber.

1 17. The person selected for the temporary Senior Accountant position sent her resume
2 in for the job on November 25, 1997. The closing date on the announcement was November 4,
3 1997.

4 18. The person selected for the temporary Senior Accountant position was not a City
5 of Seattle employee, as solicited by the City of Seattle's announcements.

6 19. The City of Seattle's announcements for position 092-97 stated that regular City
7 of Seattle employees should apply directly to the Human Resource Specialist. All applicants
8 including Plaintiff did so. The person selected for the temporary Senior Accountant did not and
9 sent her resume directly to Defendant Carstensen.

10 20. The person selected for the temporary Senior Accountant position was given
11 preferential treatment because of her race and Plaintiff was denied position 092-97 because of
12 her race

13 21. In March of 1998, the Central Accounting Unit published an Opportunity for
14 Advancement Bulletin for a regular Senior Accountant position. The announcement number
15 showed number 10-98 on its first page and number 019-98 at the bottom of the second page
16 (hereinafter position "10-98").

17 22. The qualifications for position 10-98 were the same as position 092-97.

18 23. Plaintiff was a regular City of Seattle employee, applied in a timely fashion for
19 position 10-98 and was qualified for position 10-98.

20 24. Plaintiff was not selected for position 10-98 Plaintiff was not invited for the
21 interview process for position 10-98 Plaintiff had been invited to interview for position 092-97.

22 25. Six applicants for position 10-98 were selected to be interviewed. Five were of
23 Asian or Filipino origin and one was Caucasian. None was African American. In applying for
24 position 10-98, Plaintiff listed more desired and required factors in her resume than the majority
25 of those candidates selected for interviews.

26. On or about December 5, 1997, an Interview Panel comprising John Updegraff, Defendant Carstensen, and Demy Alcantara, conducted interviews for the five candidates who applied for the temporary Senior Accountant position 092-97. As part of the interview process, Defendant Carstensen requested Mr. Demy Alcantara to conduct test exercises with the interviewees, consisting of tests on Microsoft Word, Excel and the Seattle Financial Management System (SFMS). Mr. Demy Alcantara was a Senior Accountant during this time who reported to Defendant Carstensen. The test exercises were completed on Mr. Demy Alcantara's computer. Mr. Alcantara is Filipino. Mr. Alcantara conducted these test exercises by himself and reported the results only to Defendant Carstensen. Mr. Alcantara reported that Emelita Barber, who turned out to be the successful candidate, passed the SFMS portion of the test exercise even though she did not pass 2 out of the 3 sections of that test section. The only test exercise Emelita Barber passed totally was the section testing her skill using the word processing system, Microsoft Word. Some time between March 12, 1999 and June 16, 1999, over one year after Emelita Barber was actually interviewed and selected to fill position 092-97, Defendant Carstensen asked Mr. Demy Alcantara, a Senior Accountant who reported to her, to alter the interview rating sheets that he had used when rating the potential candidates for 092-97. Mr. Demy Alcantara did not concern himself with the appropriateness of altering the interview sheets, even though he knew he would be better able to accurately rate and score the sheets if they were completed contemporaneous with the interview itself. Mr. Demy Alcantara complied and altered the rating sheets for the December, 1998 interviews. By doing so, Mr. Demy Alcantara altered the scores that he had entered for the candidates so that Emelita Barber's score tied for the highest among the candidates he had interviewed.

27. While employed with the City of Seattle, Plaintiff raised the issue of her unfair employment with the City of Seattle and filed a complaint to the Human Resources department.

1 An investigation commenced at the request of Ms. Cindy Eckholt, Executive Services
2 Department, Human Resources Director.

3 28. During the course of the investigation, Defendant Carstensen made false and
4 misleading statements regarding how she arrived at her decision to hire Emelita Barber, a
5 Filipino woman, for position 10-98 and denied Plaintiff such employment. For example,
6 Defendant Carstensen stated that she was looking to hire a Certified Public Accountant ("CPA")
7 and Plaintiff was not a CPA.

8 29. The qualifications and description of position 10-98 did not require a CPA
9 license.

10 30 The person selected for position 10-98 was not a CPA at the time of her selection
11 and two of the Asian Americans who were selected for interviews were not CPAs

12 31. During the course of the investigation, Defendant Carstensen provided
13 documents to the investigator which were altered to reflect events that had not taken place or to
14 reflect procedures that had not been carried out For example, to justify the hiring of a CPA,
15 Defendant Carstensen produced a letter and resume dated March 16, 1998 from the successful
16 candidate of 10-98 stating that she had passed her CPA exam and identifying her CPA certificate
17 number of 20152. The successful candidate's certificate was not issued until May 4, 1998 and
18 certificate numbers would not have been produced on March 16, 1998

19 32. Defendant City of Seattle, and in particular, the Executive Services Department,
20 has adopted a policy of prohibiting racial discrimination in its hiring decisions. The Executive
21 Services Human Resources Department, in recognition of the under-representation of African
22 Americans and persons with disabilities in the Central Accounting Unit, utilized a Vacancy
23 Action Form which requested Selective Referrals for African Americans and people with
24 disabilities for position 10-98 There were no selective referrals used for position 10-98

25 33. In June of 1999, the Central Accounting Unit had 18 employees. 61% of these
26

employees were of Asian or Filipino origin. Only one was an African American

34. During the application period for position 10-98, the pool of applicants sent to Defendant Carstensen from Human Resources' Opportunity For Advancement pool consisted of 5 Asian/Filipino Americans, 1 Caucasian and 1 African American Defendant City of Seattle has also established a Talent Bank database in order to develop and identify suitable applicants not currently employed by the City of Seattle for City of Seattle job openings The Talent Bank submitted 75 additional names to Defendant Carstensen for position 10-98, consisting of 32 Caucasians, 16 Asian/Filipinos, 5 African Americans, 1 person with a disability and 1 Native American. There were also 20 candidates who did not specify their ethnicity.

35 While Asian/Filipinos constituted 26% of all applicants, they constituted 83% of those who were scheduled for interviews by the Defendant Carstensen

36. Defendant City of Seattle, by and through its employees and by and through the Executive Services Department's hiring procedures, discriminated against Plaintiff on the basis of her race.

37. Defendant City of Seattle, by and through The Executive Services Department, did not follow its procedures for hiring. For example, the Executive Services Department Hiring Policy 5.3 states that Human Resources Services will send resumes and a Checklist for Hiring to the Hiring Supervisor - in this case, Defendant Carstensen While these forms were delivered to Defendant Carstensen, they were not completed or delivered back to Human Resources.

38. In Defendant City of Seattle's efforts to discriminate against Plaintiff and preferentially hire Asian/Filipino Americans, Defendant Carstensen failed to hire or even meaningfully consider Plaintiff for position 092-97 and position 10-98.

V. FIRST CAUSE OF ACTION

Employment Discrimination Against Defendant City of Seattle

39. Plaintiff re-alleges the matters set forth in paragraphs 1-38 as if the same had

1 been fully set forth herein

2 40. At all times material to this complaint, Defendant City of Seattle, acting through
3 its subdivisions, department, agents and representatives, including but not limited to the
4 Executive Services Department and Defendant Carstensen, failed to hire Plaintiff for position
5 092-97 and position 10-98 based on her race - African American.

6 41. Based on Respondent Superior, Defendant City of Seattle is legally responsible
7 for the conduct and omissions of its subdivisions, departments, agents and representatives,
8 including but not limited to the Executive Services Department and Defendant Carstensen.

9 42 Defendant City of Seattle is an employer pursuant to RCW 49.60.030 and as
10 defined in RCW 49.60.040.

11 43. Plaintiff was at all times an employee of Defendant City of Seattle
12 pursuant to RCW 49 60 040

13 44. Defendant City of Seattle denied Plaintiff positions 092-97 and 10-98 in
14 violation of RCW 49.60 180, Washington's Law Against Discrimination in employment

15 45 **Damages.** Plaintiff suffered damages as a proximate cause of Defendant
16 City of Seattle's violation of Washington's Law Against Discrimination, including but not
17 limited to wage loss, loss of benefits, mental anxiety and emotional distress, and attorney's fees
18 and costs incurred herein, all in an amount to be proven at trial.

19 **VI. SECOND CAUSE OF ACTION**

20 **Employment Discrimination Against Defendant Teresita Carstensen**

21 46. Plaintiff re-alleges paragraphs 1-44 as if they were fully set forth herein.

22 47. Defendant Carstensen is a person as defined in RCW 49.60.040 and acted in the
23 interest of her employer, the Defendant City of Seattle

24 48. Defendant Carstensen denied Plaintiff positions 092-97 and 10-98 in violation of
25 RCW 49.60.180, Washington's Law Against Discrimination in employment.

1 49. **Damages.** Plaintiff suffered damages as a proximate cause of Defendant
2 Carstensen's violation of Washington's Law Against Discrimination, including but not limited to
3 wage loss, loss of benefits, mental anxiety and emotional distress, and attorney's fees and costs
4 incurred herein, all in an amount to be proven at trial.

5 **VII. THIRD CAUSE OF ACTION**

6 Unfair Practice to

7 50. Plaintiff re-alleges paragraphs 1-49 as if they were fully set forth herein.

8 51. The Defendant Carstensen, by her acts and omissions, aided and abetted the
9 Defendant City of Seattle's proscribed discrimination of Plaintiff set forth above in violation of
10 RCW 49.60.220.

11 52. **Damages.** Plaintiff suffered damages as a direct and proximate cause of
12 Defendant Carstensen's aiding and abetting, including but not limited to wage loss, loss of
13 benefits, mental anxiety and emotional distress, and attorney's fees and costs incurred herein, all
14 in an amount to be proven at trial.

15 **VIII. FOURTH CAUSE OF ACTION**

16 Intentional Misrepresentation Against Defendant City of Seattle

17 53. Plaintiff re-alleges paragraphs 1-52 as if they were fully set forth herein

18 54. The Defendant City of Seattle, acting through its subdivisions, departments,
19 agents and representatives, misrepresented material facts during and after the Plaintiff's hiring
20 process, in violation of the tort law of the State of Washington.

21 55 **Damages.** Plaintiff suffered damages as a proximate cause of Defendant City of
22 Seattle's intentional misrepresentation in its hiring practices and procedures, including but not
23 limited to wage loss, loss of benefits, mental anxiety and emotional distress, and attorney's fees
24 and costs incurred herein, all in an amount to be proven at trial.

IX. FIFTH CAUSE OF ACTION

56 Plaintiff re-alleges paragraphs 1-55 as if they were fully set forth herein.

57. Defendant Carstensen, misrepresented material facts during and
after the Plaintiff's hiring process by altering documents and making false representations to the
Plaintiff and to third parties, in violation of the tort law of the State of Washington.

58 **Damages.** Plaintiff suffered damages as a proximate cause of
Defendant Carstensen's intentional misrepresentation, including but not limited to wage loss,
loss of benefits, mental anxiety and emotional distress, and attorney's fees and costs incurred
herein, all in an amount to be proven at trial

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the defendants, and each of them, as
follows

1. For all such general and special damages allowable under Washington law and as
shall be established at the time of the trial herein, including but not limited to back pay, front
pay, loss of benefits, out of pocket expenditures, exemplary damages, mental anxiety and
emotional distress,

2 For attorney's fees and other costs of suit to the extent allowed by law; and

3. For such other relief as the Court deems just and proper.

DATED this 7TH day of December 2001.

HARRELL, DESPER, CONNELL,
HUNTER & GAUTSCHI, PLLC



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Attorneys for Plaintiff